

be expressly waived by the Government of the United States. The Comptroller General and his duly authorized representatives shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents. Such persons shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations. The privileges, exemptions and immunities accorded under this paragraph are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government of the Federated States of Micronesia.

(b) Audit officials from the Government of the United States shall provide the Government of the Federated States of Micronesia with advance notice of the specific dates and nature of their visits prior to entering the Federated States of Micronesia and shall show verifiable identification to officials of the Government of the Federated States of Micronesia when seeking access to records. In the performance of their responsibilities under this Agreement, audit officials from the Government of the United States shall have due regard for the laws of the Federated States of Micronesia and the duties and responsibilities of the officials of the Government of the Federated States of Micronesia. Officials of the Government of the Federated States of Micronesia shall cooperate fully to the extent practicable with the United States audit officials to enable the full discharge of their responsibilities. Questions with respect to the identity or authorization of United States audit officials shall be referred for resolution to the United States Representative referred to in Article V of Title One of the Compact, as amended.

(c) The Comptroller General of the United States, and officials of the United States General Accounting Office acting on his or her behalf, shall have coextensive authority with the executive branch of the Government of the United States as provided in this Article of this Agreement and section 232 of the Compact, as amended. The audit officials from the executive branch of the Government of the United States shall avoid duplication between their audit programs and those of the United States General Accounting Office. The Government of the Federated States of Micronesia shall cooperate fully to the extent practicable with the Comptroller General of the United States in the conduct of such Audits as the Comptroller General of the United States determines necessary in accordance with this Article to enable the full discharge of his responsibilities.

4. Access to Records:

(a) The Government of the Federated States of Micronesia shall provide audit officials from the Government of the United States with access, without cost and during normal working hours, to all records, documents, working papers,

automated data, and files which are relevant to the uses of funding received pursuant to the Compact, as amended, by the Government of the Federated States of Micronesia. To the extent that such information is contained in confidential official documents, the Government of the Federated States of Micronesia shall undertake to extract information that is not of a confidential nature and make it available to the audit officials from the Government of the United States in the same manner as other relevant information or to provide such information from other sources.

(b) In order to reduce the level of interference in the daily operation of the activities of the Government of the Federated States of Micronesia, audit officials from the Government of the United States shall, to the extent practicable, inform the Government of the Federated States of Micronesia of their need for information, including the type of information and its relation to their annual audit schedule. To the extent practicable, the Government of the Federated States of Micronesia shall make available the information requested by audit officials from the Government of the United States relevant to Audits and available in a manner consistent with generally accepted accounting procedures that allows for the distinction of the Grants, assistance, and payments provided by the Government of the United States from any other funds of the Government of the Federated States of Micronesia. Such information shall be used and returned as quickly as accurate audit testing and surveying allow.

(c) The Government of the Federated States of Micronesia shall maintain records, documents, working papers, automated data, files, and other information regarding each such Grant or other assistance for at least three years after such Grant or assistance was provided.

5. Review of Audits:

Audit organizations and officials from the Government of the United States, including the Comptroller General of the United States and his duly authorized representatives, shall provide the Government of the Federated States of Micronesia with at least 45 days to review and comment on draft audit reports prior to the release of the reports. The comments of the Government of the Federated States of Micronesia shall be included, in full, in the final audit reports. Should a draft audit report be revised based on the comments of the Government of the Federated States of Micronesia, the Government of the Federated States of Micronesia shall have an additional period to review and comment on the report prior to its release.

Article IX
Annual Reconciliation and End-of-Grant Requirements

1. The Government of the United States shall reconcile Operational Grants at least annually, and evaluate program performance and financial reports to determine work progress, outcomes, and compliance with Grant terms and conditions.
2. The Government of the United States shall close out each award at the end of each annual Grant year once it determines that all applicable administrative actions and

required work has been completed or if all Grant monies for that year have been expended.

(a) Within 90 days of the expiration of the Grant year, the Government of the Federated States of Micronesia must submit all final financial, performance, and other reports required as a condition of the Grant. The Government of the United States may Grant an extension of the due date upon the request of the Government of the Federated States of Micronesia.

(b) Within 90 days after receipt of reports in paragraph (2) of this section, the Government of the United States shall make upward or downward adjustments to the allowable reimbursable costs.

(c) The Government of the Federated States of Micronesia shall immediately refund any balance of cash not authorized to be retained. The refunded balance shall be available for use to supplement subsequent Grants.

3. The Government of the United States shall retain the right to disallow costs and recover funds on the basis of a later audit or other review. The Closeout of a Grant does not affect the obligation of the Government of the Federated States of Micronesia to return any funds paid in excess of the amount to which it is finally determined to be entitled under the terms of the award. Such an amount shall be deemed to constitute a debt to the Government of the United States. If the amount owed is not repaid within a reasonable period, the Government of the United States may reduce the debt by:

- (a) Making an administrative offset against other requests for reimbursement;
- (b) Withholding advance payments otherwise due to the Government of the Federated States of Micronesia; or
- (c) Taking other action described in this Agreement or as otherwise permitted by law.

Article X

Effective Date, Amendment, and Duration

1. This Agreement shall take effect on the effective date of the Compact, as amended.

2. This Agreement may be amended at any time in writing by mutual consent of the Government of the United States and the Government of the Federated States of Micronesia.

3. Disputes:

(a) Disputes involving sections 4, and 5(c)(1) of Article IV, and Articles III, V, VII and VIII shall be resolved in accordance with the Appeal process defined in Article I of this Agreement.

(b) All other disputes may be resolved in accordance with the Appeal process defined in Article I of this Agreement or through the conference and dispute resolution process set forth in Article II of Title Four of the Compact, as amended. Withholdings or Suspensions of payment shall stand unless otherwise determined through the conference and dispute resolution process of Article II of Title Four of the Compact, as amended.

4. This Agreement shall remain in full force and effect until terminated by mutual consent, or until the expiration or Termination of the Grants provided under section 211 and Grants administered under section 221 of the Compact, as amended, whichever occurs first. The Government of the United States shall provide any unobligated Grant balances from the last Fiscal Year of the effectiveness of section 211(a) as amended, to the Government of the Federated States of Micronesia in accordance with the procedures set forth in this Agreement and without regard to whether the Compact, as amended, its related agreements, or this Agreement are still in effect. In this case, the funds shall be budgeted and expended pursuant to the purposes set forth in Article II of this Agreement.

5. This Agreement may be accepted, by signature or otherwise, by the Government of the United States and the Government of the Federated States of Micronesia. Each Government shall possess an original English language version.

6. Interpretation. In this Agreement, all references herein to Articles, paragraphs, sub-paragraphs, clauses, and sections shall be deemed references to this Agreement unless the context shall otherwise require. References to statutes or regulations are to be construed as including all statutory or regulatory provisions, as applicable, consolidating, amending or replacing the statute or regulation referred to. All references to agreements and other documents shall be to such documents as amended, modified, supplemented or restated from time to time in a manner consistent with the terms and conditions of this Agreement. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with Generally Accepted Accounting Principles, as in effect from time to time in the United States of America.

DONE at Palikir, in duplicate, this 14th day of
May, 2003, each text being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

Handwritten signature of Larry M. Dwyer in cursive script.

FOR THE GOVERNMENT OF THE
FEDERATED STATES OF MICRONESIA:

Handwritten signature of Jacobus in cursive script.

Annex A

Agreement on the Establishment and Use Of the Disaster Assistance Emergency Fund

1. For twenty years beginning in FY'04, and subject to the requirements of paragraph 2, on or about the beginning of each fiscal year, the Government of the Federated States of Micronesia and the Government of the United States shall each deposit \$200,000 in a Disaster Assistance Emergency Fund (DAEF) account established by the Government of the Federated States of Micronesia in accordance with section 211(d) of Title Two of the Compact, as amended. The account shall be with a bank or commercial financial institution organized in accordance with the laws of the United States or a State of the United States; or, subject to the approval of the Government of the United States, a bank or commercial financial institution organized in accordance with the laws of the Government of the Federated States of Micronesia.
2. The Government of the United States shall deposit its contribution upon: certification by the Government of the Federated States of Micronesia that local matching funds have been deposited; and beginning in Fiscal Year 2005, receipt by the Government of the United States of an annual financial report from the previous year showing deposits of both the Government of the United States and the Government of the Federated States of Micronesia, the amount of interest income generated during the Fiscal Year, and the fund balance.
3. The Government of the Federated States of Micronesia may invest part or all of the DAEF in low-risk instruments such as certificates of deposit, money market funds and Treasury bills, provided asset liquidity is not compromised. Any earnings from such investments shall be reinvested into the DAEF.
4. Funds from this account may be withdrawn only after the President of the Federated States of Micronesia or his designee officially declares a state of emergency justifying use of the DAEF and the United States Ambassador or Charge d'Affaires concurs as to the use and the amount of the withdrawal.
5. The funds shall be used to protect the immediate health and safety of the residents of the Federated States of Micronesia in the event of a disaster resulting in the declaration of a state of emergency, as referred to in paragraph 4, and for the rehabilitation and reconstruction of public property damaged in the disaster.
6. The Government of the Federated States of Micronesia shall provide the Joint Economic Management Committee (JEMCO) with a written report on the use of the DAEF within thirty days of any withdrawal.